	Application No.	Applicant(s)
Notice of Allowability	10/027,420	SCHWARTZ ET AL.
	Examiner	Art Unit
	Amee A. Shah	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *Ex. Amdt of 5/9/07 & Amdt of 3/5/07*.

2. ☒ The allowed claim(s) is/are *3,4,8,9 and 25-27*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some*   c) ☐ None   of the:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____ .

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____ .

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413), Paper No./Mail Date *5/8/07* .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other

YOGESH C. GARG
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600

U.S. Patent and Trademark Office
PTOL-37 (Rev. 08-06)   Notice of Allowability   Part of Paper No./Mail Date 20070508

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or

additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the

payment of the issue fee.

Authorization for this examiner's amendment regarding the claims was given in a

telephone interview with Walter Nielsen on May 8, 2007.

The application has been amended as follows:

In the Title:

Digital Content Pricing Apparatus ~~And Method~~

In the Claims:

Claims 1, 2, 5, 10 and 11 are cancelled, claims 6, 7 and 12-24 having been previously

cancelled. Claims 26 and 27 are newly added.

Claims 3, 4, 8 and 25 have been amended as follows:

Claim 3. (Currently Amended) The digital content pricing <u>system</u> ~~apparatus~~ of claim

[[1]] <u>8,</u> wherein the memory includes a plurality of pricing formulae including the final pricing

formula.

Claim 4. (Currently Amended) The digital content pricing <u>system</u> ~~apparatus~~ of claim [[1]] <u>8,</u> wherein at least one of the plurality of digital content items is associated with a plurality of configuration options, including the at least one item configuration option.

Claim 8. (Currently Amended) A digital content pricing system, comprising:

a sales computer ~~to~~ <u>that</u> calculate<u>s</u> a final price;

a purchase computer ~~capable of being~~ communicatively coupled with the sales computer; and

a memory ~~capable of being~~ communicatively coupled with the sales computer, including a plurality of digital content items, wherein each one of the plurality of digital content items is associated with a base price and at least one item configuration option associated with an option price, wherein at least one configuration option comprises reducing a cost for a digital content item if advertising is included<u>;</u>~~, and wherein one of the plurality of digital content items is associated with the final price related to the base price and the option price by a final pricing formula.~~

<u>wherein the sales computer calculates the final price by:</u>

<u>determining, for one of the plurality of digital content items, the final price related to the base price and the option price by a final pricing formula ITEMPRICEA = ADJA * [BASEA + (OA1 *PA1) + (OA2*PA2) + (OA3*PA3)], wherein BASEA is the base price for a selected digital content item A, ADJA is an item price adjustment factor for digital content item A, the values OA1, OA2, and OA3 are prices for individual options associated with digital content item</u>

A, and the factors PA1, PA2, and PA3 are option-specific price adjustment factors associated

with the options OA1, OA2, and OA3; and

wherein OA1 is an option price for including advertising in the selected digital content

item A.

Claim 25. (Currently Amended) A digital content pricing system, comprising:

a sales computer ~~to~~ that calculate_s_ a final price; and

a memory ~~capable of being~~ communicatively coupled with the sales computer, including

a plurality of digital content items; wherein each one of the plurality of digital content items is

associated with a base price and at least one item configuration option associated with an option

price, wherein at least one item configuration option includes reducing a final price for a digital

content item if advertising is included in the digital content item;

wherein the sales computer ~~is to~~ calculate_s_ the final price by:

determining, for one of the plurality of digital content items, the final price related to the

base price and the option price by a final pricing formula $ITEMPRICEA = ADJA * [BASEA +$

$(OA1 *PA1) + (OA2*PA2) + (OA3*PA3)]$, wherein BASEA is the base price for a selected

digital content item A, ADJA is an item price adjustment factor for digital content item A, the

values OA1, OA2, and OA3 are prices for individual options associated with digital content item

A, and the factors PA1, PA2, and PA3 are option-specific price adjustment factors associated

with the options OA1, OA2, and OA3; and

wherein OA1 is an option price for including advertising in the selected digital content

item A.

Claim 26. (Newly Added) The digital content pricing system of claim 25, wherein the memory includes a plurality of pricing formulae including the final pricing formula.

Claim 27. (Newly Added) The digital content pricing system of claim 25, wherein at least one of the plurality of digital content items is associated with a plurality of configuration options, including the at least one item configuration option.

REASONS FOR ALLOWANCE

Claims 3, 4, 8, 9 and 25-27 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 8.

The prior art of record neither anticipates nor fairly and reasonably teaches the system of claim 8 of a sales computer that calculates a final price; a purchase computer communicatively coupled with the sales computer; and a memory communicatively coupled with the sales computer, including a plurality of digital content items, wherein each one of the plurality of digital content items is associated with a base price and at least one item configuration option associated with an option price, wherein at least one configuration option comprises reducing a cost for a digital content item if advertising is included; wherein the sales computer [is to]

calculates the final price by: determining, for one of the plurality of digital content items, the

final price related to the base price and the option price by a final pricing formula *ITEMPRICEA*

= ADJA * [BASEA + (OA1 *PA1) + (OA2*PA2) + (OA3*PA3)], wherein BASEA is the base

price for a selected digital content item A, ADJA is an item price adjustment factor for digital

content item A, the values OA1, OA2, and OA3 are prices for individual options associated with

digital content item A, and the factors PA1, PA2, and PA3 are option-specific price adjustment

factors associated with the options OA1, OA2, and OA3; and wherein OA1 is an option price for

including advertising in the selected digital content item A.

The most remarkable prior art of record, and discussed in previous office actions, is Kay

et al., US 2002/0144275 A1 (hereafter referred to as "Kay"). Kay teaches a digital content

pricing system (see Abstract), comprising: a sales computer to calculate a final price (Fig. 1 and

¶0034 – note the computer is the billing system (160) that is capable of calculating a final price);

a purchase computer communicatively coupled with the sales computer (Fig. 1 and ¶0027 – note

the purchase computer can be unit 105-1, 105-2 or 105-3 which can comprise of a computer

terminal and/or a set-top box); and a memory communicatively coupled with the sales computer,

including a plurality of digital content items (Fig. 1 and ¶¶0029-0032 and 0034 – note the

memory is the server (130) which is capable of being coupled to the billing system), wherein

each one of the plurality of digital content items is associated with a base price (Fig. 3 and ¶0045

– note the base price is the default price).

Kay discloses the memory storing a base price (i.e. the default price) and another price

(i.e. a discount) wherein each of the plurality of digital content items is associated with a final

price related to the base price and another price by a final pricing formula (Figs. 12C, 15 and 16 and ¶¶0045-0052).

However, Kay does not anticipate nor fairly and reasonably teach wherein the memory includes at least one item configuration option associated with an option price, wherein at least one configuration option comprises reducing a cost for a digital content item if advertising is included, the other price associated with a final price to the digital content item by a pricing , formula is the option price, and wherein the sales computer calculates the final price by: determining, for one of the plurality of digital content items, the final price related to the base price and the option price by a final pricing formula ITEMPRICEA = ADJA * [BASEA + (OA1 *PA1) + (OA2*PA2) + (OA3*PA3)], wherein BASEA is the base price for a selected digital content item A, ADJA is an item price adjustment factor for digital content item A, the values OA1, OA2, and OA3 are prices for individual options associated with digital content item A, and the factors PA1, PA2, and PA3 are option-specific price adjustment factors associated with the options OA1, OA2, and OA3; and wherein OA1 is an option price for including advertising in the selected digital content item A.

Another remarkable prior art of record, and discussed in prior office actions, is Cansler et al., US 6,725,257 (hereafter referred to as "Cansler"). Cansler teaches a system for configuring a product using a server and computer network wherein the product has multiple configurations and the memory stores item configuration options associated with option prices (Abstract, Fig. 2, col. 5, lines 34-38, col. 7, lines 45-64 and col. 9, lines 30-33 – note the memory is the

configuration database, the option prices are the MSRP and/or dealer invoice prices, and Cansler

envisioned other products besides vehicles).

However, Cansler does not anticipate nor fairly and reasonably teach wherein at least one

configuration option comprises reducing a cost for a digital content item if advertising is

included and wherein the sales computer calculates the final price by: determining, for one of the

plurality of digital content items, the final price related to the base price and the option price by a

final pricing formula ITEMPRICEA = ADJA * [BASEA + (OA1 *PA1) + (OA2*PA2) +

(OA3*PA3)], wherein BASEA is the base price for a selected digital content item A, ADJA is an

item price adjustment factor for digital content item A, the values OA1, OA2, and OA3 are

prices for individual options associated with digital content item A, and the factors PA1, PA2,

and PA3 are option-specific price adjustment factors associated with the options OA1, OA2, and

OA3; and wherein OA1 is an option price for including advertising in the selected digital content

item A.

Another remarkable prior art of record, and discussed in prior office actions, is

Rodriguez, US 2003/0005452 (hereafter referred to as "Rodriguez"). Rodriguez teaches that

multiple configurations, i.e. add-on options, associated with unalterable content can be provided.

Rodriguez discloses a media system providing improved availability of purchasable recordable

media content downloaded from a remote server wherein the media content, i.e. product, has

multiple configurations such as content quality, download time and bandwidth and different

prices for each configuration (Figs. 12-16 and ¶¶0068, 0069, 0072-0074, 0080 and 0081).

However, Rodriguez does not anticipate nor fairly and reasonably teach wherein at least one configuration option comprises reducing a cost for a digital content item if advertising is included and wherein the sales computer calculates the final price by: determining, for one of the plurality of digital content items, the final price related to the base price and the option price by a final pricing formula ITEMPRICEA = ADJA * [BASEA + (OA1 *PA1) + (OA2*PA2) + (OA3*PA3)], wherein BASEA is the base price for a selected digital content item A, ADJA is an item price adjustment factor for digital content item A, the values OA1, OA2, and OA3 are prices for individual options associated with digital content item A, and the factors PA1, PA2, and PA3 are option-specific price adjustment factors associated with the options OA1, OA2, and OA3; and wherein OA1 is an option price for including advertising in the selected digital content item A.

A final remarkable prior art, not discussed previously, is Oh, US 2002/0161713 A1 (hereafter referred to as "Oh"). Oh teaches a system that provides multimedia contents to customers wherein a configuration option comprises reducing a cost for a digital content if advertising is included (see at least Abstract and Figs. 4-7).

However, Oh does not anticipate nor fairly and reasonably teach wherein the sales computer calculates the final price by: determining, for one of the plurality of digital content items, the final price related to the base price and the option price by a final pricing formula ITEMPRICEA = ADJA * [BASEA + (OA1 *PA1) + (OA2*PA2) + (OA3*PA3)], wherein BASEA is the base price for a selected digital content item A, ADJA is an item price adjustment factor for digital content item A, the values OA1, OA2, and OA3 are prices for individual

options associated with digital content item A, and the factors PA1, PA2, and PA3 are option-specific price adjustment factors associated with the options OA1, OA2, and OA3; and wherein OA1 is an option price for including advertising in the selected digital content item A.

Claims 3, 4 and 9.

Claims 3, 4, and 9 are dependencies of independent claim 8 and are allowable over the prior art for the reasons identified above with respect to claim 8.

Claim 25.

Claim 25 recites a digital content pricing apparatus consistent with and parallel to the limitations of the system of claim 8, with the exception of a purchase computer. This method is allowable over the prior art for reasons consistent with those identified above with respect to claim 8.

Claims 26 and 27.

Claims 26 and 27 are dependencies of independent claim 25 and are allowable over the prior art for the reasons identified above with respect to claim 25.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

EXAMINER'S COMMENTS

Applicant's amendment, filed March 5, 2007, are sufficient to overcome the prior art with

respect to claim 25. Applicant's arguments, see Remarks, filed March 5, 2007, with respect to

claim 25 have been fully considered and are persuasive.

The title of the invention has been changed to more accurately reflect the claims as

allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. (1) Lee, KR 2001103537A, discloses a method for offsetting the purchase price of an

electronic book if advertising is included, but does not disclose using a pricing formula (see

Abstract). (2) Author unknown, "Salon Reports Fourth Quarter Fiscal 2001 Results," PR

Newswire, New York, May 15, 2001, pg. 1, discloses a website offering options to view digital

content without advertising for a higher fee, but does not disclose a pricing formula or storing

configuration option prices.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Amee A. Shah whose telephone number is 571-272-8116. The

examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.
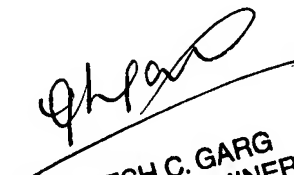
If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

May 9, 2007

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